REMARKS

Claims 1-20, 22-24, and 26-27 are pending in this application. Claims 21 and 25 were previously cancelled. Please amend the claims as shown above. Please cancel claims 4-5, 7, 14-19, 22-23, and 26-27 subject to refiling, leaving claims 1-3, 6, 8-13, 20, and 24 pending.

Applicant has amended claim 1 to include the elements of claim 7, claim 20 to include the elements of claim 23, and claim 24 to include the elements of claim 27. Harmonizing amendments were made to other claims.

These amendments were made in response to the Final Office Action mailed October 20, 2004 (hereinafter "10/20/04 Final Office Action") in which claims 7-13, 23, and 27 were rejected under 35 USC 103(a) as being obvious over United States Patent No. 6,430,539 (hereinafter "Lazarus") in view of United States Patent No. 6,611,829 (hereinafter "Tate") further in view of United States Patent No. 5,806,074 (hereinafter "Souder"). 10/20/04 Final Office Action at 12. In that rejection, the 10/20/04 Final Office Action noted that Tate "constitutes prior art only under 35 USC 102(e)" and "has a common assignee and inventor with the instant application" and that the rejection might be overcome "by showing that the subject matter of the reference and the claimed invention were, at the time this invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2)." 10/20/04 Final Office Action at 12.

MPEP § 706.02(I)(2)(II) gives the following example of the evidence required to show common ownership:

> For example, an attorney or agent of record receives an Office action for Application X in which all the claims are rejected under 35 U.S.C. 103(a) using Patent A in view of Patent B wherein Patent A is only available as prior art under 35 U.S.C. 102(e), (f), and/or (g). In her response to the Office action, the attorney or agent of record for Application X states, in a clear and conspicuous manner, that:
>
> "Application X and Patent A were, at the time the invention of Application X was made, owned by Company Z."
>
> This statement alone is sufficient evidence to disqualify Patent A from being used in a rejection under 35 U.S.C. 103(a) against the claims of Application X.

In this case, the Tate reference is only available as prior art under 35 USC 102(e). *See* 10/20/04 Final Office Action at 12 ("Based upon the earlier effective U.S. filing date of the [Tate] reference, it constitutes prior art only under 35 USC 102(e)"). That fact, in conjunction with the

following statement, disqualifies the Tate reference from being used in a rejection under 35 USC 103(a) against the claims of the instant application:

> **Application 09/779,866 (the instant application) and United States Patent No. 6,611,829 (the Tate reference) were, at the time the invention of Application 09/779,866, owned by NCR Corporation.**

Thus, Tate is disqualified from being used in a rejection under 35 USC 103(a) in the present application. As a result, the rejection under 35 USC 103(a) in the 10/20/04 Final Office Action of claims 7-13, 23, and 27, which relied on Tate, fails and those claims are patentable. Independent claims 1, 20, and 24 have been amended to include the limitations of allowable claims 7, 23, and 27, respectively, and claims 7, 23, and 27 have been cancelled. Accordingly, claims 1, 20, and 24 are allowable. Further, the remaining claims (claims 2-3, 6, 8-13) depend from claim 1 and are allowable for at least the same reasons. Applicant respectfully requests that the pending claims be allowed.

SUMMARY

Applicant contends that the claims are in condition for allowance, which action is requested. Applicant requests that any fees required with this submission be debited from deposit account number 50-4370.

Respectfully submitted,

/Howard L. Speight/
Howard L. Speight
Reg. No. 37,733
9601 Katy Freeway
Suite 280
Houston, Texas 77024
(713) 881-9600 (phone)
(713) 715-7384 (facsimile)
howard@hspeight.com
ATTORNEY FOR APPLICANTS

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